

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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ANA C-M.,

Plaintiff,

v.

Civil Action No.  
3:20-CV-0296 (DEP)

KILOLO KIJAKAZI, Acting Commissioner  
of Social Security,<sup>1</sup>

Defendant.

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APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF

LACHMAN, GORTON LAW FIRM  
P.O. Box 89  
1500 East Main Street  
Endicott, NY 13761-0089

PETER A. GORTON, ESQ.

FOR DEFENDANT

SOCIAL SECURITY ADMIN.  
625 JFK Building  
15 New Sudbury St  
Boston, MA 02203

MOLLY CARTER, ESQ.

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<sup>1</sup> Plaintiff's complaint named Andrew M. Saul, in his official capacity as the Commissioner of Social Security, as the defendant. On July 12, 2021, Kilolo Kijakazi took office as the Acting Social Security Commissioner. She has therefore been substituted as the named defendant in this matter pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, and no further action is required in order to effectuate this change. See 42 U.S.C. § 405(g).

DAVID E. PEEBLES  
U.S. MAGISTRATE JUDGE

DECISION AND ORDER<sup>2</sup>

Plaintiff commenced this action, pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3), to challenge a denial by the Commissioner of Social Security (“Commissioner”) denying her application for Social Security disability benefits. On July 23, 2021, this court ordered that the Commissioner’s decision be affirmed and plaintiff’s complaint be dismissed, and judgment was entered accordingly on July 26, 2021. Following an appeal from the judgment, a panel of the Second Circuit Court of Appeals vacated this court’s judgment and returned the matter to this court with an instruction to remand the matter to the Commissioner for further action consistent with that court’s opinion. *Claudio-Montanez v. Kijakazi*, 21-2027, 2022 WL 17819123 (2d Cir. Dec. 20, 2022). Based upon that court’s determination, it is hereby

ORDERED that the judgment of this court (Dkt. No. 21) is VACATED, and the matter is REMANDED to the Commissioner for further proceedings consistent with the decision of the Second Circuit Court of Appeals panel,

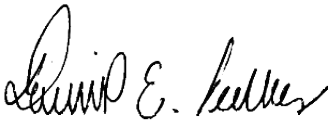
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<sup>2</sup> This matter is before me based upon consent of the parties, pursuant to 28 U.S.C. § 636(c).

including for reconsideration of (1) whether plaintiff retains the residual functional capacity (“RFC”) to perform her past relevant work as a hair braider notwithstanding her impairments, and, if not, whether she could make adjustment to other work, and (2) the weight that should be afforded to the opinions of treating physicians Dr. Joseph Hogan, Dr. Ahmed Shoaib, Dr. Anne Calkins, Dr. Eric Seybold, and Dr. Wood<sup>3</sup> concerning plaintiff’s need to elevate her feet, her need to alternate between sitting and standing, and her potential rate of absenteeism and off-task behavior; and it is further respectfully

ORDERED that the clerk enter judgment consistent with this opinion.

Dated: February 16, 2023  
Syracuse, NY

  
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DAVID E. PEEBLES  
U.S. Magistrate Judge

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<sup>3</sup> The Second Circuit listed “Dr. Wood” as one of the relevant physicians. However, it is not clear to whom this is referring or if it was a typographical error, as it is not clear that there is an opinion from a Dr. Wood in the record.